

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
EMMANUEL NESTANT,

Plaintiff,

-against-

THE CITY OF NEW YORK, OMAR ALMOZAR,
ADRIAN CASTILLO, EBONY CHANCE and JASON
WILSON,

Defendants.
-----X

**STIPULATION AND
ORDER OF
SETTLEMENT AND
DISCONTINUANCE**

07 CV 6016 (GEL) (HBP)

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 6/2/08

WHEREAS, plaintiff commenced this action by filing a complaint on or about June 26, 2007, alleging that defendants violated his constitutional rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and


WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

WHEREAS, plaintiff has authorized counsel to settle this matter as against defendants on the terms enumerated below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. This above-referenced action is hereby dismissed with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.
2. The City of New York hereby agrees to pay plaintiff Emmanuel Nestant the sum of ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$125,000.00) in full

satisfaction of all claims, inclusive of claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff agrees to the dismissal of all claims against the City of New York and all individually named defendants, and to release all defendants and any present or former employees or agents of the City of New York from any and all liability, claims, or rights of action that have or could have been alleged by plaintiff in this action arising out of the events alleged in the complaint in this action, including claims for costs, expenses and attorney's fees.

3. Plaintiff shall execute and deliver to City defendant's attorney all documents necessary to effect this settlement, including, without limitation, a release based on the terms of paragraph "2" above and an Affidavit of No Liens or an Affidavit Concerning Liens, whichever applies (*CIRCLE ONE*). 

4. Nothing contained herein shall be deemed to be an admission by defendants or the City of New York that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York.

6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject

matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York

May 27, 2008

Edward Sivin, Esq.
Sivin & Miller, LLP
Attorney for Plaintiff
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New York, New York 10038
(212) 349-8300

By: 

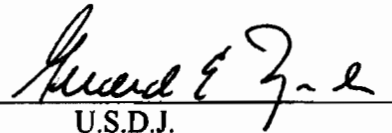
Edward Sivin, Esq.

MICHAEL A. CARDOZO
Corporation Counsel of the City of New
York
Attorney for Defendants
100 Church Street
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(212) 788-1041

By: 

Sarah B. Evans
Assistant Corporation Counsel

SO ORDERED:


U.S.D.J.
6/2/08